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EXPRESS MAIL NO.: EV 331382020 US

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MAR 03 2009
OFFICE OF PETITIONS

Attorney : Derek L. Woods
Docket No. : 52433/354

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : H. NISHIDA et al.
Serial No. : 08/295,686
Filed : August 24, 1994
For : PROCESS FOR PRODUCTION OF EASY-OPEN CAN LID MADE
OF RESIN LAMINATED METAL SHEET, EASY-OPEN CAN LID,
AND RESIN LAMINATED METAL SHEET FOR EASY-OPEN
CAN LID

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL

**REQUEST FOR RECONSIDERATION
OF PETITION UNDER 37 C.F.R. §1.137(a)
AND
REQUEST FOR RECONSIDERATION
OF PETITION UNDER 37 C.F.R. §1.181**

SIR:

Transmitted herewith in response to the Decision On Petition mailed December 24, 2008 in the above-identified patent application is (1) a Request For Reconsideration Of Petition Under 37 C.F.R. §1.137(a) For Revival Of Abandoned Application and (2) a Request For Reconsideration Of Petition Under 37 C.F.R. §1.181 To Withdraw Holding Of Abandonment.

Terminal Disclaimer

Also transmitted herewith is a Terminal Disclaimer To Accompany Petition (PTO/SB/63).

A Power of Attorney By Assignee Of Entire Interest With Statement Under 37 C.F.R. §3.73(b) is also transmitted herewith in support of the Terminal Disclaimer.

Terminal Disclaimer Fee

Please charge the fee required Under 37 C.F.R. §1.20(d) of One Hundred Forty Dollars (\$140.00) for filing a Terminal Disclaimer to **Deposit Account No. 11-0600**. A duplicate of this paper is enclosed for deposit account charging purposes.

Please charge any deficiency of fee or any other required fee due in connection with the filing of the Terminal Disclaimer to **Deposit Account No. 11-0600**.

Other Fees

Please charge any required fee due in connection with this submission of (1) a Request For Reconsideration Of Petition Under 37 C.F.R. §1.137(a) For Revival Of Abandoned Application and/or (2) a Request For Reconsideration Of Petition Under 37 C.F.R. §1.181 To Withdraw Holding Of Abandonment to **Deposit Account No. 11-0600**. A duplicate of this paper is enclosed for deposit account charging purposes.

Please charge any required extension of time fee under 37 C.F.R. §1.17 to **Deposit Account No. 11-0600**. A duplicate of this paper is enclosed for deposit account charging purposes.

Respectfully submitted,

KENYON & KENYON LLP

By: _____

John J. Kelly, Jr.

John J. Kelly, Jr.

Reg. No. 29,182

Dated: February 24, 2009

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**REQUEST FOR RECONSIDERATION
OF PETITION UNDER 37 C.F.R. §1.137(a)
AND
REQUEST FOR RECONSIDERATION
OF PETITION UNDER 37 C.F.R. §1.181**

SIR:

This communication is in response to the DECISION ON PETITION mailed
December 24, 2008 in the above-identified patent application:

- (1) dismissing the Petition Under 37 C.F.R. §1.137(a) For Revival Of
Abandoned Application, and
- (2) dismissing as untimely the Petition Under 37 C.F.R. §1.181 To Withdraw
Holding Of Abandonment.

Reconsideration of the DECISION ON PETITION mailed December 24, 2008
in the above-identified patent application is respectfully requested.

PETITION UNDER 37 C.F.R. §1.137(a)

A Petition Under 37 C.F.R. §1.137(a) For Revival Of Abandoned Application was filed in the above-identified patent application on November 9, 1995 (Certificate of Mailing dated November 7, 1995).

Applicants hereby renew the Petition Under 37 C.F.R. §1.137(a) For Revival Of Abandoned Application (hereinafter “1.137(a) Petition”).

A DECISION ON PETITION mailed September 22, 2008 (hereinafter “September Decision”) dismissed the 1.137(a) Petition.

A Request For Reconsideration of the September Decision was filed November 21, 2008 (hereinafter “November Request For Reconsideration”).

A DECISION ON PETITION mailed December 24, 2008 (hereinafter “December Decision”) again dismissed the 1.137(a) Petition.

Reconsideration of the DECISION ON PETITION mailed December 24, 2008 dismissing the 1.137(a) Petition is respectfully requested.

A Grantable Petition Under 37 C.F.R. §1.137(a)

The December Decision stated in the paragraphs bridging pages 2 and 3 of the December Decision that in November, 1995 the showing required for a grantable petition pursuant to 37 C.F.R. §1.137(a) required:

- (1) A proposed response to continue prosecution of the application;
- (2) The petition fee as set forth in 37 C.F.R. §1.17(1);
- (3) A showing that the delay was unavoidable;
- (4) A Terminal Disclaimer and the fee as set forth in 37 C.F.R. §1.20(d).

The December Decision at page 3 stated that the present petition lacks item (4).

The December Decision stated at page 4 under Conclusion that the petition under 37 C.F.R. §1.137(a) is dismissed for lack of a Terminal Disclaimer.

Terminal Disclaimer

In support of the 1.137(a) Petition, attached hereto is a Terminal Disclaimer To Accompany Petition.

Deposit Account authorization to charge the required Terminal Disclaimer fee as set forth in 37 C.F.R. §1.20(d) is given in the Transmittal letter transmitting this Request For Reconsideration.

Attached to the Terminal Disclaimer is Power Of Attorney By Assignee Of Entire Interest With Statement Under 37 C.F.R. §3.73(b). As required by 37 C.F.R. §3.73(b)(1)(i), a copy of the assignment from the inventors to the assignee (Nippon Steel Corporation) of the above-identified patent application is attached to the Power Of Attorney By Assignee Of Entire Interest With Statement Under 37 C.F.R. §3.73(b).

Facts and Evidence

The facts and evidence related to the 1.137(a) Petition are set forth at pages 2 to 7 of the November Request For Reconsideration and are hereby incorporated herein by reference.

All required papers and fees in this matter were timely filed by the applicants as supported by the evidence of record.

Case Law

The case law of Takao, Winkler and Future Technology discussed at page 2 of the December Decision and page 4 of the September Decision was discussed in detail in the November Request For Reconsideration at pages 7 and 8, such discussion hereby incorporated herein by reference.

The present matter is completely different than Takao, Winkler or Future Technologies. In the present matter, the Office did not act in response to the applicants' November 9, 1995 Petition Under 37 C.F.R. §1.137(a).

CONCLUSION

The December Decision states at page 3 that the present 1.137(a) Petition lacks item (4), i.e., a Terminal Disclaimer.

A Terminal Disclaimer required by the December Decision is being filed herewith.

RELIEF REQUESTED

It is therefore respectfully requested that:

- (1). Reconsideration be given to the DECISION ON PETITION mailed December 24, 2008;
- (2). This paper be considered a renewal of the November 9, 1995 Petition Under 37 C.F.R. §1.137(a);
- (3). The dismissal of the November 9, 1995 Petition Under 37 C.F.R. §1.137(a) be withdrawn;
- (4). The November 9, 1995 Petition Under 37 C.F.R. §1.137(a) be granted;
- (5). The Notice of Abandonment of the above-identified patent application mailed October 17, 1995 be withdrawn; and
- (6). The above-identified patent application be revived and returned to prosecution on the merits.

PETITION UNDER 37 C.F.R. §1.181

A petition under 37 C.F.R. §1.181 To Withdraw Holding Of Abandonment was filed on November 21, 2008 in response to the Decision On Petition mailed September 22, 2008, i.e., within two (2) months of the September Decision.

Applicants hereby renew the Petition Under 37 C.F.R. §1.181 To Withdraw Holding Of Abandonment.

Reconsideration of the DECISION ON PETITION mailed December 24, 2009 dismissing as untimely the Petition Under 37 C.F.R. §1.181 is respectfully requested.

The September Decision was the first communication from the Office to the applicants informing the applicants that the 1.137(a) Petition was dismissed. The September Decision mailed September 22, 2008 was the action or notice from which relief was requested by the Petition Under 37 C.F.R. §1.181.

The Petition Under 37 C.F.R. §1.181 was filed within the two month period set forth in 37 C.F.R. §1.181.

The facts, evidence and documentation supporting the Petition Under 37 C.F.R. §1.181 To Withdraw Holding Of Abandonment are set forth in detail in the November Request For Reconsideration and the November Petition Under 37C.F.R. §1.181 and are hereby incorporated herein by reference.

RELIEF REQUESTED

It is respectfully requested that:

(1). Reconsideration being given to the DECISION ON PETITION mailed December 24, 2008;

(2). This paper be considered a renewal of the November 21, 2008 Petition Under 37 C.F.R. §1.181;

(3). The dismissal as untimely of the November 21, 2008 Petition Under 37 C.F.R. §1.181 be withdrawn;

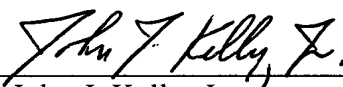
(4). The November 21, 2008 Petition Under 37 C.F.R. §1.181 be granted;

(5). The Notice of Abandonment of the above-identified patent application mailed October 17, 1995 be withdrawn; and

(6). The above-identified patent application be revived and returned to prosecution on the merits.

Respectfully submitted,

KENYON & KENYON LLP

By: 
John J. Kelly, Jr.
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Dated: February 24, 2009

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